

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

ROBERT ALAN ROBSON, JR.
3535 BANBURY ROAD, #76
RIVERSIDE, CA 92505

Case No. 2008 - 73

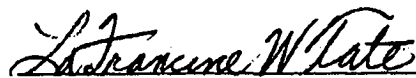
Respondent

DEFAULT DECISION AND ORDER

The attached Default Decision and Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in the above entitled matter.

This Decision shall become effective on **NOVEMBER 16, 2008**.

IT IS SO ORDERED **OCTOBER 16, 2008**.



President
Board of Registered Nursing
Department of Consumer Affairs
State of California

1 EDMUND G. BROWN JR., Attorney General
of the State of California
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8 Attorneys for Complainant

9 **BEFORE THE**
10 **BOARD OF REGISTERED NURSING**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
12 **STATE OF CALIFORNIA**

13 In the Matter of the Statement of Issues Against:

14 ROBERT ALAN ROBSON, J.R.
15 3535 Banbury Road, # 76
Riverside, CA 92505

Respondent.

Case No. 2008-73

**DEFAULT DECISION
AND ORDER**

[Gov. Code, § 11520]

16 FINDINGS OF FACT

17 1. On or about August 27, 2007, Complainant Ruth Ann Terry, M.P.H., R.N.,
18 in her official capacity as the Executive Officer of the Board of Registered Nursing, Department
19 of Consumer Affairs, filed Statement of Issues No. 2008-73 against Robert Alan Robson, Jr.,
20 R.N. (Respondent) before the Board of Registered Nursing.

21 2. On or about November 29, 2006, Respondent filed an application with the
22 Board of Registered Nursing to obtain a license by endorsement as a registered nurse.

23 3. On February 21, 2007, the Board denied Respondent's application and
24 thereafter Respondent appealed the Board's denial of his application and requested a hearing.

25 4. On or about September 6, 2007, Jennifer Familo, an employee of the
26 Department of Justice, served by registered mail and first class mail a copy of the Statement of
27 Issues No. 2008-73 to Respondent's address on the application which was 3535 Banbury Road,

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1 #76, Riverside, California 92505. A copy of the Statement of Issues is attached as exhibit A,
2 and is incorporated herein by reference.

3 5. Service of the Statement of Issues was effective as a matter of law under
4 the provisions of Government Code section 11505, subdivision (c).

5 6. On or about July 21, 2008 Respondent faxed to the Office of the Attorney
6 General a copy of Respondent's notice of his withdrawal of his application for licensure. A copy
7 of the request for withdrawal is attached as Exhibit B, and is incorporated herein by reference.

8 7. Business and Professions Code section 118 states, in pertinent part:

9 (a) The withdrawal of an application for a license after it has been filed
10 with a board in the department shall not, unless the board has consented in writing
11 to such withdrawal, deprive the board of its authority to institute or continue a
proceeding against the applicant for the denial of the license upon any ground
provided by law or to enter an order denying the license upon any such ground.

12 8. Government Code section 11506 states, in pertinent part:

13 (c) The respondent shall be entitled to a hearing on the merits if the
14 respondent files a notice of defense, and the notice shall be deemed a specific
15 denial of all parts of the accusation not expressly admitted. Failure to file a notice
of defense shall constitute a waiver of respondent's right to a hearing, but the
agency in its discretion may nevertheless grant a hearing.

16 9. California Government Code section 11520 states, in pertinent part:

17 (a) If the respondent either fails to file a notice of defense or to appear at
18 the hearing, the agency may take action based upon the respondent's express
19 admissions or upon other evidence and affidavits may be used as evidence without
20 any notice to respondent; and where the burden of proof is on the respondent to
establish that the respondent is entitled to the agency action sought, the agency
may act without taking evidence.

21 10. Pursuant to its authority under Government Code section 11520 and
22 Business and Professions Code section 118(a), the Board finds Respondent is in default. The
23 Board will take action without further hearing and, based on evidence on file herein, finds that
24 the allegations in Statement of Issues No. 2008-73 are true.

25 DETERMINATION OF ISSUES

26 1. Based on the foregoing findings of fact, Respondent has subjected his
27 application for a registered nurse license to denial.

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- 1 2. The agency has jurisdiction to adjudicate this case by default.
- 2 3. The Board of Registered Nursing is authorized to deny Respondent's
- 3 application for licensure based upon the following violations alleged in the Statement of Issues:
- 4 a. In approximately 1999, Respondent was working in a PACU at
- 5 West Virginia University Hospital in Morgantown, West Virginia as a charge nurse.
- 6 b. Three years after beginning employment at the University Hospital,
- 7 Respondent began diverting controlled substances for his personal use. His diversion lasted for
- 8 the next two years until he was terminated on April 1, 2002.
- 9 c. Respondent obtained the drugs by false pretenses by using another
- 10 nurse's code in order to gain access to narcotics.
- 11 d. Respondent was terminated from his employment as a registered
- 12 nurse on April 1, 2002, for the theft of Hydromorphone PCA.
- 13 e. Respondent's West Virginia nursing license was revoked.
- 14 f. As a prerequisite to petitioning for reinstatement of his nursing
- 15 license the West Virginia State Nursing Board required him to complete a treatment program for
- 16 substance abuse, attend 12 step meetings, submit to random drug screens and to complete several
- 17 additional terms and conditions of probation. Respondent complied with all of the terms and
- 18 conditions of probation.
- 19 g. On March 17, 2006, Respondent appeared before the West
- 20 Virginia Nursing Board to petition for reinstatement of his nursing license.
- 21 h. On April 6, 2006, the West Virginia State Board of Examiners for
- 22 Registered Professional Nurses entered into a Consent Agreement with Respondent wherein they
- 23 reinstated his nursing license on the following terms and conditions:
- 24 i. His license was suspended for one year with the suspension stayed;
- 25 j. He was placed on probation for three (3) years beginning on the
- 26 date he first notified the West Virginia Board that he was employed as a registered nurse;
- 27 k. He was required to maintain employment as a registered nurse on
- 28 at least a part-time basis (40 hours every two weeks) for the entire probationary period;

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l. Pay a fine of \$3,000.00;

m. In order to maintain his West Virginia probationary license Respondent was required to maintain an active and current license in the state of West Virginia, among other terms and conditions of probation.

n. On January 17, 2007, Respondent was notified by the West Virginia Nursing Board that his nursing license was suspended for failing to comply with the probationary condition of maintaining a current and active license in the state of West Virginia. The Board's records indicate Respondent's West Virginia nursing license has lapsed, thereby violating his probation in the state of West Virginia.

ORDER

IT IS SO ORDERED that the application of Respondent Robert Alan Robson, Jr., R.N. is hereby denied.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on NOVEMBER 16, 2008.

It is so ORDERED OCTOBER 16, 2008

LaFrancine W Tate

FOR THE BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS

80264443.wpd

Attachment:

Exhibit A: Statement of Issues No. 2008-73
Exhibit B: Request for Withdrawal of Application

Exhibit A

Statement of Issues No. 2008-73

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2 LINDA K. SCHNEIDER
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9 Attorneys for Complainant

10 **BEFORE THE**
11 **BOARD OF REGISTERED NURSING**
12 **STATE OF CALIFORNIA**
DEPARTMENT OF CONSUMER AFFAIRS

13 In the Matter of the Statement of Issues Against:

14 Robert A. Robson, Jr.
3535 Banbury Road, # 76
15 Riverside, CA 92505

16 Respondent.

Case No. 2008-73

STATEMENT OF ISSUES

17
18 Complainant alleges:

19 PARTIES

- 20 1. Ruth Ann Terry, M.P.H, R.N (Complainant) brings this Statement of
21 Issues solely in her official capacity as the Executive Officer of the Board of Registered Nursing.
22 2. On or about December 4, 2006, the Board of Registered Nursing received
23 an application for Licensure by Endorsement from Robert Alan Robson, Jr., R.N. (Respondent).
24 On or about November 29, 2006, Robert Robson certified under penalty of perjury to the
25 truthfulness of all statements, answers, and representations in the application. The Board denied
26 the application on February 21, 2007.

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4. Section 2761 of the Code states:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

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(a) A board may deny a license regulated by this code on the grounds that applicant has one of the following:

• • • •

The board may deny a license pursuant to this subdivision only if the crime or act is substantially related to the qualifications, functions or duties of the business or profession for which application is made.

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1 evaluate the rehabilitation of a person when considering the denial of a license
2 under subdivision (a) of Section 482.

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4 6. Code section 4060 states, in pertinent part:

5 No person shall possess any controlled substance, except that furnished to
6 a person upon the prescription of a physician, dentist, podiatrist, optometrist,
7 veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished
8 pursuant to a drug order issued by a certified nurse-midwife pursuant to Section
9 2746.51, a nurse practitioner pursuant to Section 2836.1, a physician assistant
10 pursuant to Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or
11 a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause
12 (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052.
13 This section shall not apply to the possession of any controlled substance by a
14 manufacturer, wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist,
15 optometrist, veterinarian, naturopathic doctor, certified nurse-midwife, nurse
16 practitioner, or physician assistant, when in stock in containers correctly

17 7. Health and Safety Code section 11170 states that no person shall prescribe,
18 administer, or furnish a controlled substance for himself.

19 8. Health and Safety Code section 11173, subdivision (a), states, in pertinent
20 part, that "[n]o person shall obtain or attempt to obtain controlled substances, or procure or
21 attempt to procure the administration of or prescription for controlled substances, (1) by fraud,
22 deceit, misrepresentation, or subterfuge . . ."

23 CONTROLLED SUBSTANCE AT ISSUE

24 9. "Dilaudid," a brand of Hydromorphone, is a Schedule II controlled
25 substance as designated by Health and Safety Code section 11055, subdivision (b)(1)(K).

26 FACTS

27 10. In approximately 1999, Respondent was working in a PACU at West
28 Virginia University Hospital in Morgantown, West Virginia as a charge nurse.

11. Three years after beginning employment at the University Hospital,
Respondent began diverting controlled substances for his personal use. His diversion lasted for
the next two years until he was terminated on April 1, 2002, for the theft of Hydromorphone
PCA, from the hospital.

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1 12. Respondent obtained the drugs under false pretenses by using another
2 nurse's code in order to gain access to the narcotics.

3 13. Respondent sustained a misdemeanor conviction based upon the diversion
4 of the narcotics.

5 14. Respondent's West Virginia nursing license was revoked.

6 15. As a prerequisite to petitioning for reinstatement of his nursing license the
7 West Virginia State Nursing Board required him to complete a treatment program for substance
8 abuse, attend 12 step meetings, submit to random drug screens and to complete several additional
9 terms and conditions of probation. Respondent complied with all of the terms and conditions of
10 probation.

11 16. On March 17, 2006, Respondent appeared before the West Virginia
12 Nursing Board to petition for reinstatement of his nursing license.

13 17. On April 6, 2006, the West Virginia Nursing Board entered into a Consent
14 Agreement with Respondent wherein it reinstated his nursing license on the following terms and
15 conditions:

16 a. His license was suspended for one year with the suspension stayed;

17 b. He was placed on probation for three (3) years beginning on the date he
18 first notified the West Virginia Board that he was employed as a registered nurse;

19 c. He was required to maintain employment as a registered nurse on at
20 least a part-time basis (40 hours every two weeks) for the entire probationary period;

21 d. Pay a fine of \$3,000.00;

22 18. In order to maintain his West Virginia probationary license Respondent
23 was required to maintain an active and current license in the state of West Virginia, among other
24 terms and conditions of probation.

25 19. On January 17, 2007, Respondent was notified by the West Virginia
26 Nursing Board that his nursing license was suspended for failing to comply with the probation
27 condition of maintaining a current and active license in the state of West Virginia. The Board's
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1 records indicate Respondent's West Virginia nursing license had lapsed, thereby violating his
2 probation in the state of West Virginia.

3 20. On November 29, 2006, Respondent applied for Licensure by
4 Endorsement in California based upon his licensure in West Virginia. Licensure by Endorsement
5 allows an applicant who is a licensed nurse in another state to apply for a nursing license in
6 California without taking the California licensing examination.

7 21. On February 21, 2007, the California Nursing Board denied Respondent's
8 application for licensure based upon his disciplinary action in the state of West Virginia.

9 FIRST CAUSE FOR DENIAL OF APPLICATION

10 (License Revocation in Another State)

11 22. Respondent's application is subject to denial under section 2761 of the
12 Code in that he committed unprofessional conduct because his West Virginia registered nurse
13 license was restricted or disciplined by the West Virginia State Board of Examiners for
14 Registered Nursing, as set forth above in paragraphs 11 through and including paragraph 21,
15 above.

16 SECOND CAUSE FOR DENIAL OF APPLICATION

17 (Criminal Conviction)

18 23. Respondent's application is subject to denial under section 480(a)(1) of the
19 Code in that he has been convicted of a crime substantially related to the qualifications, functions
20 or duties of a licensed registered nurse as set forth above in paragraphs 11 through and including
21 paragraph 21, above.

22 THIRD CAUSE FOR DENIAL OF APPLICATION

23 (Committed Act That Warrants Revocation or Suspension of Licensee)

24 24. Respondent's application is subject to denial under Section 480(a)(3) of
25 the Code in that he performed an act which if done by a licensed registered nurse would be
26 grounds for suspension or revocation of his license, as set forth above in paragraphs 11 through
27 and including paragraph 21, above.

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1 FOURTH CAUSE FOR DENIAL OF APPLICATION

2 (Unlawful Possession of Controlled Substances)

3 25. Respondent's application is subject to denial under Section 4060 of
4 the Code in that he possessed controlled substances without a lawful prescription, as set forth in
5 paragraphs 11 through and including paragraph 21, above.

6 FIFTH CAUSE FOR DENIAL OF APPLICATION

7 (Unlawful Administration of Controlled Substances)

8 26. Respondent's application is subject to denial under Health and Safety Code
9 section 11170, in that he administered, or furnished a controlled substance for himself without a
10 lawful prescription, as set forth in paragraphs 11 through and including paragraph 21, above.

11 SIXTH CAUSE FOR DENIAL OF APPLICATION

12 (Obtaining Controlled Substances by Fraud, Deceit, Misrepresentation or Subterfuge)

13 27. Respondent's application is subject to denial under Health and Safety Code
14 section 11170, in that he obtained or attempted to obtain controlled substances, or procured or
15 attempted to procure the administration of or prescription for controlled substances, (1) by fraud,
16 deceit, misrepresentation, or subterfuge, as set forth in paragraphs 11 through and including
17 paragraph 21, above.

18 PRAYER

19 WHEREFORE, Complainant requests that a hearing be held on the matters herein
20 alleged, and that following the hearing, the Board issue a decision:

21 1. Denying the application of Robert Alan Robson, Jr., R.N. for a Registered
22 Nurse License;

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2. Taking such other and further action as deemed necessary and proper.

DATED: 8/27/07


RUTH ANN TERRY, M.P.H, R.N
Executive Officer
Board of Registered Nursing
State of California
Complainant

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